

## 21 C.J.S. Courts § 257

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### Courts

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### VIII. Concurrent and Conflicting Jurisdiction

#### A. Courts of Same State

##### 1. In General

§ 257. Stay or dismissal of proceedings by court with concurrent jurisdiction

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#### West's Key Number Digest

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**When a concurrent jurisdiction problem arises between the courts of a state, the proceedings of one court will usually be stayed or dismissed under the principle of priority of jurisdiction.**

When a concurrent jurisdiction problem arises between the courts of a state, the proceedings of one court will usually be stayed or dismissed.<sup>1</sup> In this connection, the principle of priority of jurisdiction<sup>2</sup> may be implemented by trial rules allowing a party to move for dismissal on the ground that the same action is pending in another state court.<sup>3</sup> A trial rule allowing a defendant to assert as an affirmative defense that the same action is pending in another court of concurrent jurisdiction simply recognizes that two courts may not simultaneously exercise jurisdiction over what amounts to the same case.<sup>4</sup>

Alternatively, a court may, in a proper case, stay proceedings before it pending the determination of another proceeding that may affect the issues raised.<sup>5</sup> The decision whether to grant or deny a stay of proceedings is ordinarily a matter within the discretion of the trial court and will be disturbed only if this discretion is abused.<sup>6</sup> Generally, like other discretionary decisions trial courts are called upon to make, the decision to grant or deny a stay on the ground that proceedings are pending in another court of concurrent jurisdiction is a decision requiring the court to exercise its discretion, and failure to do so is ordinarily itself error.<sup>7</sup>

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## Footnotes

- 1 Minn.—*Gavle v. Little Six, Inc.*, 555 N.W.2d 284 (Minn. 1996).
- 2 § 255.
- 3 Ind.—*Fackler v. Powell*, 839 N.E.2d 165 (Ind. 2005).
- 4 Ind.—*Kozlowski v. Dordieski*, 849 N.E.2d 535 (Ind. 2006).
- 5 Md.—*Vaughn v. Vaughn*, 146 Md. App. 264, 806 A.2d 787 (2002).
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